

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**KENNETH E. MARTENSEN,**

**Plaintiff,**

**VS.**

**GEORGE FLOCK, et al.,**

**Defendant.**

**8:06cv516**

## ORDER TO SHOW CAUSE

This matter is before the court for initial review of the Amended Complaint filed by the plaintiff, Kenneth E. Martensen.<sup>1</sup> In filing no. 5, I directed the plaintiff to file an Amended Complaint because the basis for subject matter jurisdiction in this court was not apparent on the face of his initial complaint, and the substance of the plaintiff's claim was unclear. Unfortunately, the Amended Complaint contains the same defects.

As far as I can determine, the plaintiff wishes to recover certain real property located in Garfield County, Nebraska. The real estate has at one time or another been the subject of a mortgage to FmHA, transfers to various other persons, and an asset in the Chapter 7 bankruptcy Case No. 04-41611 of Kenneth E. and Mary L. Martensen, for which a discharge occurred on August 27, 2004.

If the plaintiff wishes to quiet title to the property, he may file an action in the appropriate state court. If this case is related in some fashion to the former bankruptcy proceeding, the plaintiff may wish to file an action of some kind in the bankruptcy court. However, the plaintiff has failed to demonstrate any jurisdictional foundation for this case in federal court. There does not appear to be a federal question, a civil rights violation, a federal statute granting a private cause of action, or complete diversity of citizenship among the parties.

<sup>1</sup>Mary L. Martensen also has signed the Amended Complaint, but she has not filed a Motion to Proceed In Forma Pauperis or paid the filing fee, so at this time she is not a party to this case.

IT THEREFORE HEREBY IS ORDERED:

1. That by August 31, 2006, the plaintiff shall file a Response to this Order to Show Cause setting forth with specificity the jurisdictional basis for this case; and

2. That in the absence of a timely and sufficient Response to this Order to Show Cause, this action will be subject, without further notice, to dismissal without prejudice on the basis of Fed. R. Civ. P. 12(h), which states: "Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action."

DATED this day 16th August, 2006.

BY THE COURT

s/ *David L. Piester*

David L. Piester

United States Magistrate Judge